

Message Text

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ACTION EUR-12

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FM AMEMBASSY LISBON
TO SECSTATE WASHDC 9586
INFO AMCONSUL OPORTO
AMEMBASSY MADRID
USDOC WASHDC
AMEMBASSY MEXICO

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E.O. 11652: N/A
TAGS: EINV, CPRS, PO
SUBJECT: US INVESTMENT DISPUTE: CUETARA BOLACHAS DE PORTUGAL,
SARL.

REF: A) LISBON 8135 B) LISBON 7086

SUMARY. CUETARA BOLACHAS DE PORTUGAL, SARL, 39 PERCENT US
CITIZEN OWNED, HAS HAD SERIOUS LABOR PROBLEMS SINCE APRIL 1975.
OWNER REGAINED CONTROL OF FIRM AFTER 15 MONTHS OF WORKER
OCCUPATION IN AUGUST 1976; WORKERS REOCCUPIED PREMISES AND
LOCKED OUT OWNERS IN SEPTEMBER 1976. OWNERS NOW UNABLE REGAIN
CONTROL BECAUSE RECENTLY PASSED LAW FREEZING STATUS OF WORKER-
ORGANIZED FIRMS. FIRM'S LAYERS CHARGING MINISTER OF LABOR
WITH CRIMINAL FRAUD IN PROHIBITING EFFORTS AT RESTITUTION AND
THREATENING TO SUE MINISTER IN SUPREME ADMINISTRATIVE TRIBUNAL.
WELL-KNOWN IN PORTUGAL. END SUMMARY.

1. EMBASSY HAS DISCUSSED ASPECTS OF DISPUTE WITH
CUETARA OWNERS AND LAWYER, WITH MEXICAN EMBASSY AND
INFORMALLY WITH MINISTRY OF LABOR. BACKGROUND AND
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PRESENT STATUS OF CASE AS FOLLOWS.

2. CUETARA-BOLACHAS DE PORTUGAL, S.A.R.L. WAS ESTABLISHED
IN 1973 WITH REGISTERED CAPITAL OF APPROXIMATELY \$750,000.
FIRM, WHICH PRODUCES COOKIES, CANDY, BISCUITS AND OTHER
FLOUR PRODUCTS IN POMBAL (CENTRAL PORTUGAL), IS OWNED

39 PERCENT BY US CITIZEN, 50 PERCENT BY MEXICAN CITIZENS AND 11 PERCENT BY PORTUGUESE. CUETARA IS PART OF A GROUP HAVING CHAINS OF FACTORIES IN SPAIN AND MEXICO. WORK FORCE IN PORTUGAL IS APPROXIMATELY 100.

3. SERIOUS PROBLEMS BEGAN ON APRIL 28, 1975 WHEN WORKERS TOOK OVER FACTORY IN ABSENCE OF OWNER/MANAGER WHO WAS IN SPAIN ON VACATION. AT LEAST ONE OTHER DIRECTOR OF FIRM WAS PURGED AND WORKERS OPERATED FIRM UNTIL AUGUST 1976, WHEN MANAGEMENT RETURNED THROUGH COMBINATION OF COURT ORDER AND NEGOTIATED SETTLEMENT WITH WORKERS. IN LATE SEPTEMBER SERIOUS, HEAVILY-PUBLICIZED INCIDENTS, INCLUDING ATTEMPTS TO EMPLOY REFUGEES IN ADDITION TO REGULAR WORKERS, AND A PHYSICAL CONFRONTATION WITH POLICE TOOK PLACE AT FACTORY. RESULT WAS ANOTHER OCCUPATION BY WORKERS AND LOCK-OUT OF MANAGEMENT.

4. DURING OCTOBER AND EARLY NOVEMBER, MANAGEMENT MADE LEGAL EFFORTS TO RECOVER CONTROL OF FIRM. EFFORTS WERE INTENSIFIED IN MID-NOVEMBER IN ORDER TO REGAIN CONTROL BEFORE EFFECTIVE DATE OF DECREE-LAW 821 (SEE REFERENCE B) WHICH FROZE STATUS QUO OF ALL WORKER-RUN FIRMS. SUBJECT DECREE BECAME EFFECTIVE ON NOV. 17 ACCORDING TO CUETARA LAWYER. LAWYER HAS COPY OF LABOR MINISTRY "CREDENCIAL" DATED NOV. 16 WHICH GIVES WORKERS COMMISSION RIGHT TO OPERATE FIRM UNTIL DEC. 31.

5. CUETARA OWNER AND LAWYER CHARGE THAT "CREDENCIAL" WAS NOT ISSUED UNTIL NOVEMBER 30 AND WAS FRAUDULENTLY LIMITED OFFICIAL USE

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BACK-DATED BY LABOR MINISTRY. DATE IMPORTANT, ACCORDING TO LAWYER, BECAUSE IT ALLOWS FIRM'S STATUS TO BE FROZEN UNDER DECREE-LAW 821 WHICH HAS CLAUSE PROVIDING THAT DECREE COVERS ONLY FIRMS WHOSE WORKERS HAVE "CREDENCIAL." LAWYER CITES AS EVIDENCE FOR CHARGE LEGALLY CERTIFIED STATEMENTS DATED NOVEMBER 24, 27 AND 29 FROM CUETARA WORKERS, INCLUDING ONE MEMBER OF WORKERS COMMISSION, REFUSING TO DISOCCUPY FACTORY BECAUSE "PROBLEM BEING RESOLVED BY GOP." ACCORDING LAWYER, IT WAS NOT UNTIL NOVEMBER 30 THAT CREDENCIAL WAS MENTIONED. ON THAT DATE ANOTHER MEMBER OF WORKERS COMMISSION MADE CERTIFIED STATEMENT THAT WORKERS DID NOT HAVE TO LEAVE FACTORY BECAUSE THEY HAD "CREDENCIAL" AND WERE COVERED BY DECREE-LAW 821.

6. LAWYER NOW INVESTIGATING POSSIBILITY OF FILING CRIMINAL ACTION AGAINST LABOR MINISTER IN SUPREME ADMINISTRATIVE TRIBUNAL IN ORDER OBTAIN REVOCATION OF

"CREDENCIAL" (AND THUS APPLICABILITY OF 821) AND TO FORESTALL RENEWAL OF "CREDENCIAL" ON JANUARY 1. LAWYER STATES THAT CUETARA MANAGEMENT, BUT PARTICULARLY INCENSED BECAUSE MINISTER REPORTEDLY USED CUETARA CASE AS EXAMPLE OF WELL-RUN WORKER-CONTROLLED FIRM WHILE DEFENDING DECREE-LAW 821 IN ASSEMBLY IN EARLY DECEMBER. (ALTHOUGH DECREE-LAW ENTERED INTO FORCE ON NOVEMBER 17, ONE POLITICAL PARTY UNSUCCESSFULLY CHALLENGED IT IN THE ASSEMBLY IN EARLY DECEMBER).

7. MEXICAN COMMERCIAL COUNSELOR REPORTS THAT HIS EMBASSY HAS FOLLOWED CASE SINCE APRIL 1975. MEXICAN AMBASSADOR MADE REPRESENTATIONS PRIOR TO RESTITUTION OF MANAGEMENT IN AUGUST THROUGH FOREIGN MINISTRY. GOVERNMENT OF MEXICO WILL CONTINUE PRESS INTERESTS OF MEXICAN OWNER OF CUETARA.

8. COMMATT DISCUSSED CUETARA CASE WITH CHIEF OF LIMITED OFFICIAL USE

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CABINET MOTA OF SECRETARY OF STATE FOR LABOR MALDONADO ON DECMEBER 15. MOTA, WHO WAS FAMILIAR WITH CASE, WAS SURPRISED AT U.S. OWNERSHIP AND DENIED CATEGORICALLY THAT SECRETARIAT OF STATE FOR LABOR HAD ANYTHING TO DO WITH ISSUANCE OF "CREDENCIAL." HE MAINTAINED "CRE-DENCIAL" MUST HAVE COME FROM STAFF OF MINISTER. MOTA

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PROMISED TO CHECK ON STATUS OF CASE AND INVESTIGATE CHARGES AGAINST MINISTER AND INFORM COMMATT ASAP.

9. COMMENT: COMMATT HAS SEEN DOCUMENTS CITED BY LAWYERS AS EVIDENCE FOR CHARGES AGAINST LABOR MINISTER. THEY APPEAR DULY CERTIFIED ACCORDING PORTUGUESE LEGAL PROCEDURES. EMBASSY DOES NOT HAVE INFORMATION THAT CASE WAS MENTIONED IN ASSEMBLY. MEXICAN COMMERCIAL ATTACHE'S DESCRIPTION OF BACKGROUND OF CASE SUPPORTS THAT OF CUETARA OWNER AND LAWYER.

10. OFFICIAL ON MINISTER'S STAFF WHO IS RESPONSIBLE FOR CASE IS ANTONIO SIMOES, ACCORDING TO CUETARA LAWYER. THIS FACT VERIFIED BY COMMATT. SIMOES HAS REPUTATION OF BEING PCP SYMPATHIZER AND HAS BEEN PARTIALLY RESPONSIBLE FOR AT LEAST ONE OTHER ACTION SERIOUSLY HARMING U.S. INTERESTS.

11. CRIMINAL SUIT BY FOREIGN FIRM AGAINST LABOR MINISTER WOULD BE EXPLOITED IN PORTUGUESE PRESS (PARTICULARLY BY THOSE ALREADY CRITICAL OF GOVERNMENT), ESPECIALLY IF CUETARA LIMITED OFFICIAL USE

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HAD BEEN CITED IN ASSEMBLY AS MODEL WORKER-RUN FIRM. CUETARA OWNERS REQUESTED EMBASSY ASSISTANCE IN REVOKING "CREDENCIAL" AND ASSURING ITS NON-RENEWAL. IF THESE OBJECTIVES NOT ACHIEVED, COMMATT BELIEVES LAWYER WHO HAS CLOSE TIES TO CDS, WILL FILE SUIT.

12. ATTEMPT TO HIRE RETURNEES FROM ANGOLA ALMOST CERTAINLY WAS TAKEN AS PROVOCATION BY REGULAR WORKERS AND PROBABLY WAS KEY FACTOR IN SEPTEMBER 1976 PROBLEM. BOTH SIDES IN CUETARA DISPUTE HAVE PROBABLY ACTED IRRATIONALLY AT TIMES.

13. EMBASSY AWAITING RESPONSE FROM MOTA. WILL CONTINUE REPORT DEVELOPMENTS.
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